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BEFORE THE
ILLINOIS COMMERCE COMMISSION
SPRINGFIELD, ILLINOIS

NORTH COUNTY COMMUNICATIONS
CORPORATION,

CASE NO. 02-0147

Complainant,

v.

VERIZON NORTH, INC., et al.,

Respondents.

SECOND
REBUTTAL TESTIMONY OF TODD LESSER
ON BEHALF OF NORTH COUNTY COMMUNICATIONS, INC.

OFFICIAL FILE

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 02-0147

NCC

What

Date 11/13/03 Reporter CB

Dated: July 28, 2003

1 Q. What is your name and position.

2

3 A. Todd Lesser, president of North County Communications, Inc. ("NCC")

4

5 Q. What is the purpose of your testimony?

6

7 A. Verizon is delaying CLEC's entry into the market in Illinois. In my case they were
8 trying to commit Rate of Return regulation accounting fraud. I am here to tell my story.
9 This rebuttal testimony is for the purpose of addressing the inaccuracies Verizon's pre-
10 filed testimony.

11

12 Q. Are you asking for monetary damages?

13

14 A. Even though the Commission has the right to award me monetary damages, I
15 am not asking for any. I am not here for any monetary gain. I only ask that my attorney
16 fees be paid and that this tribunal prevent Verizon from perpetrating its delaying tactics
17 on NCC or anybody else.

18

19 Q. Are you interconnected in Illinois with Verizon?

20

21 A. Yes.

22

23 Q. Once you signed your interconnection agreement in Illinois did your
24 interconnection process go quickly?

25

26 A. Yes. I received the best service I have ever received from GTE/Verizon in
27 eighteen years. When it suits Verizon, it can move like lightning. When it doesn't it drags

28

1 its heals. Verizon devoted incredible resources to getting NCC turned up **only after**
2 NCC filed this complaint.

3
4 NCC concedes that some of the delays after that point were not Verizon's doing. NCC
5 is a small company, and we only have so many resources. Normally NCC would have
6 done many of the interconnection tasks before contacting the ILEC. However, because
7 of the very poor treatment NCC received in West Virginia concerning interconnection,
8 NCC contacted Verizon first, worried that NCC in Illinois would again meet with the
9 "policy" to refuse to interconnect at a shared facility. NCC was in no position to wait 6-9
10 months for a dedicated mux to be built in Illinois before interconnecting. NCC certainly
11 didn't want to apply for prefixes as long as Verizon was insisting on imposing this
12 "dedicated mux" policy on NCC, as NCC would have lost the prefixes while waiting for
13 the dedicated mux and/or fiber build to be installed. The North American Numbering
14 Plan Administrator requires all prefixes to be active within six months. There is no way
15 Verizon would have been able to activate the prefixes in time if they stuck to the
16 "dedicated mux" policy.

17
18 Q. If Verizon did such a great job, why are you here?

19
20 A. Verizon only started to do a great job **after** NCC filed the lawsuit. Before filing,
21 Verizon refused to interconnect with NCC at any technically feasible point as required
22 under the Telecom Act. They were going to require that my interconnection take place
23 on a dedicated mux. This would have taken anywhere from six to nine months to install.

24
25 Q. Could you have been operation during this time?

1 A. Not in Verizon Illinois territory. Verizon was refusing to provide NCC with any
2 interconnection until the dedicated mux was installed. Verizon wouldn't even give me a
3 single T1 (24 trunks).

4
5 Q. What is a mux?

6
7 A. It is short for Multiplexer. A Multiplexer is a communications device that
8 multiplexes (combines) several signals for transmission over a single medium. It
9 basically is a piece of equipment that terminates T1's and DS3's. A T1 or sometimes
10 called DS1 is equivalent to 24 trunks. A DS3 or sometimes called a T3 is equivalent to
11 28 T1's or 672 trunks.

12
13 Q. What is a dedicated mux?

14
15 A. The word dedicated is not an industry wide term. I have only heard Verizon use
16 it. This is a term Verizon invented. It is merely an adjective. A mux is a mux. There
17 is only one type of mux. They use it to describe how the mux is used. It is my
18 understanding that they use it to mean a Multiplexer that is dedicated to be used by
19 wholesale carriers and not shared with retail end users. For example, the muxes on
20 Verizon's network that are shared by retail end users are called Shared Muxes.

21
22 Q. Who was going to pay for the cost of this mux and the installation?

23
24 A. The Rate Payers of Illinois. Verizon is under Rate of Return regulation. Not only
25 were going to delay North County's entry into the market by close to a year, they were
26 going to bill the cost of this \$100,000 to \$1,000,000 (depending on the size mux and the
27 existence or non-existence of fiber) mux installation to the Rate Payers of Illinois.

28

1 Q. What is Rate of Return Regulation?

2

3 A. It is the basis upon which Verizon is compensated in Illinois. The formula is
4 based on Verizon's cost structure. The more Verizon invests in its facilities, the greater
5 its income. In short, Verizon's income is a function of a minimum return on its
6 investment in its network?

7

8 Q. Miss Allison, Miss McKernan, and Mr. Bartholomew spent a good deal of time
9 attempting to explain away the, "Policy" and the imposition of that policy. Would you
10 please describe the sequence of events, referring specifically to the e-mails so that this
11 Commission can sort through the confusion Verizon witnesses have created on this
12 topic.

13

14 A. Yes, it is really very simple. **(See Exhibit C-032)** On December 7th, 2001. I sent
15 Dianne McKernan, the Verizon representative assigned to North County for
16 interconnection throughout the entire country, an e-mail inquiring as to what Verizon's
17 requirements would be for North County Communications to interconnect with Verizon
18 in Illinois at their DeKalb tandem. Not only did I send the e-mail to Dianne McKernan, I
19 CC'd numerous other Verizon employees including Verizon's attorney. In that e-mail, I
20 asked her if Verizon was going to require a fiber build.

21

22 On December 11th, 2001, Dianne McKernan responded. **(See Exhibit C-036.)** She
23 informed me that Verizon shows no record of NCC having an interconnection
24 agreement.

25

26 She did not address my questions, so I followed up that very same day. **(See the**
27 **bottom of Exhibit C-032.)** I explained to Dianne McKernan and the extensive number
28 of people on the CC list that NCC didn't want to waste anybody's time if Verizon, "was

1 going to require a fiber build and wouldn't use the same facilities that they would for a
2 retail customer." I continued on later in the e-mail asking if it would be, "possible to find
3 out if Verizon still requires a fiber build or the use of a wholesale fiber mux to be used
4 for all interconnections."
5

6 On December 11th, 2001, Dianne McKernan sent an e-mail to Candy Thompson of
7 Verizon who is located State of Washington telling her the North County wanted to
8 become a CLEC in Illinois and that NCC had a question, "about Verizon's policy on
9 entrance facilities." (See the bottom of Exhibit C-035.)
10

11 On December 11th, 2001, Candy Thompson instructed Denise Monte or Charles
12 Bartholomew in Washington State to respond to NCC's question about, "CLEC
13 entrance facility requirements in Illinois." (See top of Exhibit C-035.)
14

15 On December 11th, 2001, Charles Bartholomew responded to Dianne McKernan. (See
16 the bottom of Exhibit C-034.) Charles Bartholomew CC'd Denise Monte and Candy
17 Thompson. He responded by saying that Verizon West, "does not require a fiber build
18 in order to interconnect."
19

20 Recognizing that Charles Bartholomew only answered part of the question, Dianne
21 McKernan sent a follow up e-mail on December 12th. (See the top of Exhibit C-034.)
22 She asked, "This customer is interested in using an existing enterprise services mux at
23 the location. Would we be able to place the trunks on that type of facility? Verizon
24 East has a policy against such an arrangement." This perfectly phrased the issue.
25

26 On December 13th, 2001, Charles Bartholomew responded to Dianne McKernan. (See
27 the bottom of Exhibit C-033.) Candy Thompson, Denise Monte and Kathryn Allison
28 were CC'd on this e-mail. He stated, "We received word from Product Management

1 that the Verizon West policy is the same as the east. The CLEC may not terminate
2 interconnection facilities on a retail facility." This perfectly framed Verizon's position.

3
4 On December 13th, 2001, Dianne McKernan sent me an e-mail responding to my
5 December 7th/11th e-mail. **(See the top of Exhibit C-033.)** She stated, "It took a bit
6 of investigating to get to the Verizon West Policy on terminating Interconnection trunks
7 on Enterprise Facilities. Unfortunately, the West policy is the same as the east, as you
8 can see in the message below. We will not terminate interconnection trunks on a
9 retail/enterprise facility." Until NCC filed the suit, this position NEVER changed.

10

11 Q. Since you are now interconnected with Verizon and they did it really fast, what
12 are you asking the Commission to do?

13

14 A. I am asking the Commission to find Verizon used their monopoly status to delay
15 North County's entry into the local Illinois market. I am asking the Commission to state
16 that Verizon's, "Policy" of not interconnecting at a shared facility (a technically feasible
17 point) is illegal. I am asking the Commission to tell Verizon that they are not going to
18 allow them to commit Rate of Return regulation fraud by charging the consumers for
19 otherwise unnecessary facilities just to artificially increase its revenue. I am asking the
20 Commission to tell Verizon that they can't continue to delay CLEC's entry into the
21 market. In my case, you can see that Verizon can move really fast when they want to. I
22 am asking the Commission to tell Verizon that they are always required to move this
23 fast.

24 Q. Who is Dianne McKernan and how would you describe her?

25

26 A. She is NCC's Verizon Representative, "Coast to Coast." She is a very
27 knowledgeable person. She has been in the industry for twenty-two years. She has been
28 working with long distance carriers, MUX's, CLLI codes, CIC codes, Prefixes, trunks,

1 and ASR's for nineteen years. Not only was she in the wholesale group, she was
2 responsible for training and supervising other representatives in that group before she
3 began working with CLEC's.

4
5 Q. In West Virginia, Dianne McKernan testified that she only had a
6 two day course on CLEC's. Is that enough time to learn about CLEC's?

7
8 A. In her case, definitely yes. If you were just off the street, this would not be
9 enough time. The terms alone can be very confusing. But if you have been in the
10 telecommunications wholesale industry for nineteen years, you could learn all the
11 additional information in two days. The equipment and the majority of the terms are the
12 same for CLEC's and IXC's. Someone in the position she held uses terms like MUX and
13 CLLI code every single day.

14
15 Q. Now let's address the dedicated mux issue and Verizon's denial of this policy.
16 Have they always denied this policy exists?

17
18 A. No. In each jurisdiction, Verizon tells a different and contradictory story. Verizon
19 will say whatever suits them in each case.

20
21 Q. Was it accurate that no one knew what she was doing in communicating this
22 policy to NCC.

23
24 A. Absolutely not. Verizon knew exactly what she was doing. NCC had conference
25 calls and e-mail exchanges with multiple Verizon employees. Even Verizon attorneys
26 were cc'd on the e-mails. (See Exhibit C-032.) Not one of them ever stopped Dianne
27 McKernan or told her what she was telling me wasn't accurate. Verizon corporate and
28 Verizon attorney's were all part of this anti-competitive behavior. Look at each e-mail

1 and see who was on the cc list. I purposely CC'd Verizon attorneys and multiple
2 Verizon employees so they couldn't deny what was said. NCC was burned once in
3 Oregon by GTE and its employee, Monte Marti, and I wasn't going to let it happen
4 again. (See Exhibits - P-023 through P-036)

5
6 Q. Is it plausible, as Verizon states, that it was just mis-communication and that no
7 one knew what Dianne McKernan was talking about?

8
9 A. No, for two reasons. First, all of the parties involved were highly experienced.
10 They all knew what they were talking about. Dianne McKernan has worked in the
11 wholesale department of Verizon for nineteen years. Charles Bartholomew has worked
12 for GTE/Verizon for twenty-two years. He was even a Central Office Equipment
13 Installer. He has probably personally installed hundreds of muxes and thousands of
14 trunks. It is not plausible for him to mix up a regular phone line or a ISDN PRI with a
15 piece of equipment. Regular phone lines, ISDN PRI's and trunks are put on MUX's. He
16 knows this. Ms. Kathryn Allison worked for GTE/Verizon for twenty-four years. She
17 negotiated interconnection agreements. She participated in workshops to develop and
18 define interconnection guidelines. She was GTE's representative at many industry
19 forums. She was a Network Planner and Traffic Engineer. She even did Facility
20 Assignments. This means she designed circuits and trunks to go on MUX's. Someone
21 with such impressive credentials couldn't possibly mix up a piece of equipment with a
22 phone line. It is just not believable. Second, if there was any doubt in the minds of
23 anybody at Verizon who was cc'd on the e-mails, they wouldn't have guessed at what
24 Ms. McKernan was talking about, as they have testified. They would have simply asked
25 Dianne McKernan what she meant.

1 Q. Did Dianne McKernan clearly and accurately express to Charles Bartholomew
2 and Ms. Thompson what NCC was requesting in her e-mails of December 11th and
3 12th?

4 A. Yes. (See Exhibit C-0324-C035)
5

6 Q. Ms. McKernan testified that she didn't have a full understanding of the words she
7 was using. Do feel this is accurate?
8

9 A. No. Not only is it not possible for someone in her position and with her
10 background/experience to mis-understand the words, she even asked them a follow up
11 question. The follow-up question clearly indicates that she understood Charles
12 Bartholomew's response to her. Mr. Bartholomew informed her that Verizon doesn't
13 require a fiber build. She then asked a follow up question. "This customer is interested
14 in using a existing enterprise services MUX at the location. Would we be able TO
15 PLACE THE TRUNKS ON THAT TYPE OF FACILITY? Verizon East has a policy
16 against such an arrangement. (See Exhibit C-034.)
17

18 Q. Did you ever ask Dianne McKernan what she meant by any of the terms she
19 used?
20

21 A. No. She has used them before in numerous e-mails and conversations.
22

23 Q. Did you ever ask Charles Bartholomew if he understood what she was saying?
24

25 A. No, I had no direct communication with Mr. Bartholomew at that time. Frankly, I
26 didn't know any of the people's titles or job responsibilities on the e-mail that was
27 forwarded me. There would have been no reason for me to second guess him or
28

1 whoever Dianne McKernan asked. I had reason to doubt the information I received.

2 The answers and questions were very clear.

3

4 Q. Dianne McKernan talks about co-location. Did you end up obtaining co-location
5 for Verizon.

6

7 A. No. I was looking at it as an alternative to having Verizon install a dedicated MUX
8 in 6-9 months. I decided that it would not work for me.

9

10 Q. Dianne McKernan brings up the fact that you didn't respond to Mr.
11 Bartholomew's December 18th, 2001 e-mail about co-location. Why didn't you respond
12 to him?

13

14 A. I asked Dianne McKernan three questions. First, is their collocation available at
15 the Verizon central office located at 225 E. Locust St. in De Kalb. Second, how long
16 does it take to establish co-location. Third, how long would it take to get interconnection
17 trunks if we co-located in the central office.

18

19 She forwarded the questions to Charles Bartholomew. I simply didn't answer his e-mail
20 because there was no reason to answer it. In the first sentence of the e-mail he stated,
21 "Please contact Larry Collier (813-273-2966 l.collier@verizon.com) regarding your
22 collocation questions." (See Exhibits P-001, P-002.) I contacted Larry Collier as he
23 suggested.

24

25 Q. Did you contact Dianne McKernan again about co-location?

26

27 A. No, per their suggestion, I contacted Larry Collier.

28

1 Q. Dianne McKernan sent you an e-mail on February 14th, 2002 asking you what
2 are North County's intentions in Illinois. (See Exhibit P-003.) She stated in her
3 testimony that NCC didn't pursue interconnection. Is that accurate?
4

5 A. No. There are many steps necessary for interconnection to occur. This was only
6 one week before the interconnection agreement become contractually effective.
7 Without the interconnection agreement, I can't even apply for prefixes with Neustar.
8

9 Q. What transpired between December 11th, 2001 and February 14th, 2002?
10

11 A. On December 11th, 2001, I sent an e-mail to Renee Ragsdale of Verizon stating
12 that we wanted begin negotiations for an agreement in Illinois. I asked her to e-mail me
13 a list of approved agreements. (See Exhibit P-004.)
14

15 On December 18th, 2001, Michele Miller of Verizon e-mailed me a list of seven
16 agreements available to opt into. (See Exhibit P-005.)
17

18 On December 18th, 2001, I asked her for an electronic copy of the seven
19 agreements. She responded back telling me that I would need to contact the
20 Commission to get them. She failed to tell me that Verizon is required to file all
21 agreements they have nationwide on the Illinois Commission web page. Each
22 document is a couple of hundred pages. (See Exhibit P-006.)
23

24 On January 13th, 2002, North County requested to opt into the AT&T
25 agreement. (See Exhibit P-007.)
26
27
28

1 On January 14th, 2002, Michelle Miller and Francis Safara both responded. They
2 requested that I send them the North County contact information for the interconnection
3 agreement. (See Exhibits P-008 and P-009.)
4

5 On January 24th, 2002, North County's attorney received the executable
6 documents. (See Exhibit P-010.) On or about January 29th, 2002, I received these
7 documents. (See Exhibit V.)
8

9 On February 5th, 2002, our contract was signed by both parties.
10

11 On February 11th, 2002, a demand letter and offer of settlement was sent to
12 Steve Hartmann, Verizon's general counsel that handles all the Verizon matters
13 NATIONWIDE for all the Verizon companies - including Verizon Illinois. (See Exhibit
14 T.)
15

16 On February 14th, 2002, Steve Hartmann, Verizon's general counsel responded
17 to North County's attorney. Verizon once again refused to interconnect at a, "shared
18 facility" and stated that, "If NCC wants to litigate and/or arbitrate in Illinois or some other
19 jurisdiction over what the 'appropriate protocol' for interconnection should be, it should
20 tee up the issue in that jurisdiction..." (See Exhibit S.)
21

22 On February 14th, 2002, I was contacted by Dianne Mckernan to ask my
23 interconnection intentions in Illinois. (See Exhibit P-003.)
24

25 Q. You mentioned a demand letter and offer of settlement that was sent to
26 Verizon's legal department. Did your Verizon take your offer of settlement?
27

28 A. No, they refused.

1 Q. What did they do with your offer of settlement?

2

3 A. Verizon's attorney in West Virginia filed a cross-complaint in West Virginia citing
4 our letter and settlement offer as an exhibit. **(See Exhibit U.)**

5

6 Q. How did you feel when Verizon turned your offer of settlement on you?

7

8 A. I felt it was inappropriate to refer to the offer of settlement in the proceeding in
9 which we were litigating the dispute. Now that they have made it an issue, I am more
10 than willing to discuss it. **Exhibits T and S** proves that Verizon corporate and Verizon
11 legal knew about this anti-competitive behavior of not interconnecting at any technically
12 feasible point as required under the Telecom Act. Still, Verizon did not change its
13 position. It took filing suit.

14

15 Q. In NCC's offer of settlement, did NCC ask for any money because of Verizon
16 delaying your interconnection?

17

18 A. No, NCC only asked them to interconnect with NCC at any technically feasible
19 point. NCC even stated that after the initial interconnection at a shared facility, if
20 Verizon built a dedicated facility, NCC would agree to move the circuits to this facility.

21

22 Q. Did Verizon's attorneys ever tell NCC that Verizon Illinois did not have this same
23 policy or that they would look into the possibility that the rules in Illinois might be
24 different?

25

26 A. No.

27

28

1 Q. Did Verizon's attorneys ever tell you that Verizon Illinois was different than the
2 rest of Verizon.

3
4 A. No.

5
6 Q. What did you do next?

7
8 A. Having no other choice, I had North County's attorney file a complaint with the
9 Illinois Commerce Commission.

10
11 Q. On February 15th, 2002, Dianne McKernan states that Verizon hadn't received a
12 complete forecast and therefore couldn't proceed. (See Exhibits P-011 and P-012.)
13 Was that accurate?

14
15 A. No. She sent me a Verizon forecast form in Microsoft Excel format.

16
17 Q. How did you respond?

18
19 A. She knew that at the time, our Sun computers could not write Microsoft Excel
20 format accurately. I was only able read Excel documents. Nevertheless, I answered the
21 questions she was asking. (See Exhibits P-013 and P-014.)

22
23 Q. Did you provide any new necessary information that they hadn't had, in
24 December 7th, e-mail?

25
26 A. No, she was having me do, "Busy work." They had this information already and
27 they didn't need it as part of a forecast. Nevertheless, I still answered the questions I
28

1 knew and pointed out the ones that were impossible to answer or that were Verizon's
2 responsibility. She asked me the following information:

3
4 LATA

5 ACTL (Access Customer Terminal Location) / POI (Point of Interface) to be determined
6 type of trunking

7 number of anticipated trunks,

8 Verizon Switch CLLI

9 Traffic Origination

10 Direction and Type of Signaling

11 Carrier Switch CLLI

12 INTERFACE TYPE (Point of Interconnection)

13 56 KB or 64 Clear Channel

14
15 Q. Why was this information unnecessary?

16
17 Verizon is operating in De Kalb Illinois. They obviously knew that De Kalb Illinois
18 is in LATA 364 and it is called the Sterling LATA.

19
20 She knew by my e-mail the previous day that I did not have an ACTL because I
21 didn't yet have a location. In addition, Verizon is the one who provides the CLEC with
22 the ACTL.

23
24 The signaling information obviously is only required when they build the circuits
25 and has nothing to do with forecasts. You put the type of signaling on your ASR
26 (Access Service Order). The trunk signaling is not part of any other forecasts I have
27 seen.

28

1 I reiterated the amount of trunks I stated in my December 7th e-mail.

2

3 I repeated the CLLI code from the December 7th, e-mail.

4

5 I described the traffic Origination. Although, this didn't matter. This would be
6 information put on the ASR.

7

8 Verizon knew that I couldn't have Telecordia issue a switch CLLI because I can't
9 have a switch CLLI until I had a location.

10

11 I told her that the circuits would be 56K. This information again would be put on
12 the ASR.

13

14 Q. Dianne McKernan mentions that Verizon had no idea that North County
15 Communications intended on serving De Kalb. They thought NCC only wanted to serve
16 Leaf River. Is that accurate?

17

18 A. No. Dianne McKenna's own testimony contradicts that statement. She included
19 my February 19th, 2002 e-mail. (See Exhibit P-015.) This was sent three days before
20 their Motion to Dismiss. I stated in that e-mail, "These trunks will allow OUR LOCAL
21 CUSTOMERS IN DEKALB to receive toll calls coming from the long distance carriers."

22

23 Q. When you applied for prefixes with the North American numbering administrator,
24 where did you apply for prefixes in the Sterling LATA 364?

25

26 A. I applied for prefixes in both De Kalb and Leaf River. (See Exhibit X.)

27

28 Q. Do you have prefixes in both in both Leaf River and De Kalb?

1 A. No, there is a lottery in this LATA for prefixes. I only was only able to obtain the
2 Leaf River prefix.

3

4 Q. Have you continued to enter the lottery for the De Kalb prefix?

5

6 A. No.

7

8 Q. Why not?

9

10 A. We frankly do not have the money to market to customers. Verizon is fighting me
11 in five states. I have been forced to divert all our available revenue to pay legal fees. If I
12 applied for a prefix and didn't use it, I would have to give it back to the North American
13 Numbering Plan Administrator. I will apply for a prefix as soon as we have the money to
14 market again.

15

16

17 Q. Have you read Charles Bartholomew's direct testimony?

18

19 A. Yes

20

21 Q. Mr. Bartholomew testified that he confused the term, "enterprise services MUX"
22 to mean a, "DS1 Primary Rate Interface 'PRI', or a business dial-tone line." Do you feel
23 his confusion was plausible?

24

25 A. No. There is no way someone with his technical experience would not know what
26 a MUX was. He may not know what the word enterprise meant, but he would definitely
27 would know what a MUX was. Therefore, he couldn't have confused it with a dial tone
28 or a PRI.

1 Q. Can you install interconnection trunks on a dial tone?

2

3 A. No, it isn't technically possible and frankly it doesn't make any sense.

4

5 Q. Did Mr. Bartholomew ask Dianne McKernan what she meant by these terms?

6

7 A. Not according to his testimony. Instead, he just guessed what she meant.

8

9 Q. Does this seem believable?

10

11 A. No, I don't believe that he would be confused by what she meant and not talk to
12 her about it. I don't believe they would just guess. In addition, his interpretation of what
13 she said wasn't technically possible. Since that is the case, it doesn't make sense that
14 he would respond saying that there was a policy against it. He would have responded
15 instead by saying that what she suggested wasn't technically feasible. You don't have
16 policies prohibiting things that can't be technically be done.

17

18 Q. Mr. Bartholomew testified that he has never heard about separate facilities for
19 wholesale and retail customers. Is this your understanding?

20

21 A. In Illinois, Verizon is now saying that they have never heard of this. Once again,
22 they say whatever suits their needs in the specific case. I am sure that if the build was
23 actually done in Illinois, they would try to justify the Rate of Return regulation fraud by
24 saying it is good engineering.

25

26 Q. Mr. Bartholomew testified that he had extensive interaction with you subsequent
27 to the time of your initial inquiry. Is this accurate?

28

1 A. No. I had no direct dealings with him until after the suit was filed. Even though
2 Dianne McKernan forwarded to me an e-mail exchange she had with him and other
3 Verizon employees, I had no direct contact with him in any way. The closest direct
4 interaction occurred when I sent an e-mail to Dianne McKernan asking her about co-
5 location. Instead of her responding, he responded for her and directed me to someone
6 else. (See Exhibit P-001.) At this point, I didn't know what his role was in Verizon. I
7 didn't actually start directly dealing with him until February.

8
9 Q. Mr. Bartholomew testified that you never indicated to him that his answers to
10 your inquiry concerning the fiber build was problematic. Is that accurate?

11
12 A. No. (see Exhibit P-016 and P-017), an e-mail I sent to him on February 21st. I
13 specifically detailed what my problems were.

14
15 Q. Did he respond by telling you that it was all a big misunderstanding and that he
16 didn't understand what Dianne McKernan meant?

17
18 A. No. The first I heard about Verizon Illinois being confused by what Dianne
19 McKernan meant was when I read his direct testimony. In all my extensive dealings with
20 him from that point on he never said it was a misunderstanding.

21
22 Q. On March 1, 2002, you sent Charles Bartholomew an e-mail stating you were
23 going to sign a lease and place orders the next week. Did you place the orders?

24
25 A. No. I was overly optimistic. It took the landlord over a week to get me the lease. I
26 then had to submit an order with Telecordia to get a CLLI code. After NCC received the
27 CLLI code, NCC then had to wait for Neustar, the North American Numbering plan
28 Administrator. There was a lottery held once a month for prefixes in this part of Illinois.

1 NCC had to wait until the next lottery date. At the time I told him I was going to place
2 orders the next week, I was unaware of the jeopardy situation with prefixes in that
3 LATA.
4

5 Q. Mr. Bartholomew testified that he was surprised that you didn't have any
6 numbers before the planning meeting or had even applied for a prefix. What is your
7 response to this?
8

9 A. Mr. Bartholomew is conveniently forgetting the whole process of getting prefixes
10 assigned. You can't apply for a prefix until you have a CLLI code. You can't get a CLLI
11 code until you have a location. You can't get a prefix until you win the lottery.
12

13 Q. Mr. Bartholomew testified that he never told you that you had to have a planning
14 meeting before submitting an ASR. Who told you about this requirement?
15

16 A. Dianne McKernan. NCC sent Verizon ASR's in West Virginia before our
17 planning meeting. Verizon refused to process them. (See Exhibits P-018, P-019, P-
18 020.)
19

20 Q. At the planning meeting did you know that Verizon was going to submit ASR's to
21 NCC?
22

23 A. No, I didn't find this until after I had my prefix and submitted my ASR to them.
24

25 Q. How did you find this out about the need for Verizon to order ASR's?
26
27
28

1 A. On July 30th, 2002, Charles Bartholomew sent me an e-mail telling me that their
2 central office switch was a DMS-100 and I would need to change my ASR and order
3 one-way trunks instead of two way trunks. (See Exhibits P-021 and P-022.)
4

5 Q. Do DMS-100's support two way trunks?
6

7 A. Yes. I have two way trunks with Qwest and Pacific Bell on a DMS-100.
8

9 Q. What did you do?
10

11 A. I figured out how to change the ASR and re-submitted the orders. I told him that I
12 knew Verizon was wrong but I didn't want to argue. I had waited months for just one
13 prefix in the lottery and I wanted to turn up.
14

15 Q. Mr. Bartholomew also suggested you validate your ASR using their computer
16 system ASR Web. Would this have worked for you?
17

18 A. No. I submitted a valid industry standard ASR. I didn't find out about their one-
19 way trunking policy until after he saw my ASR. ASR Web would only check for invalid
20 entries. Two way trunks would have passed their validation tests.
21

22 Q. Did you inform Mr. Bartholomew of this?
23

24 A. Yes.
25

26 Q. Concerning, Kathryn Allison. Have you read her testimony?
27

28 A. Yes.

1 Q. Have you had any contact with her?

2

3 A. No, I didn't even know who she was until reading her testimony. Although,
4 apparently, she was cc'd on some of the e-mails that Dianne McKernan forwarded to
5 me.

6

7 Q. Did you reach any conclusions after reading her testimony?

8

9 A. Yes. She appears to be a very knowledgeable person about her job
10 responsibilities. Although, concerning this case, she is attempting to act like an expert
11 witness even though she was a party to the process and abuse. She gives conclusions
12 that are based on her guesses and generalizations that are not supported by the facts.

13 Q. Ms. Allison states that Verizon Illinois hasn't delayed any other CLEC's in Illinois
14 and gives examples of two other CLEC's - Delta Communications and Globaleyes Tel.
15 Inc. Is this accurate?

16

17 A. No, Verizon might have not delayed them by this "Dedicated" versus "Shared"
18 MUX issue but they were definitely delayed. Verizon didn't have fiber in either of the
19 areas Global and Delta interconnected. They are located in rural areas. In addition, it
20 appears that she doesn't know anything about their interconnections because she had
21 to draw a conclusion from a, "generalization."

22

23 Q. How was Global delayed?

24

25 A. GTE was the CLEC, not Verizon, when Global interconnected with GTE. Back
26 then GTE played a different set of games. It took Global a year and a half to get an
27 interconnection agreement out of GTE. A similar experience I had with the same
28 negotiating team of GTE.

1 Q. How was Delta Communications delayed?

2

3 A. They are still being delayed. They have been waiting eight months for 911
4 trunks. They can't offer outbound services until they have 911 access. They have also
5 had co-location and other interconnection problems and delays.

6

7 Q. Does Verizon have an incentive to delay wireless carriers?

8

9 A. No, they make a lot of money from the wireless carriers off of selling them T1's.

10

11 Q. Kathryn Allison stated that what happened to you in other Verizon territories
12 shouldn't have any impact on what happened in Illinois. Verizon is different in each
13 state. Is this an accurate statement?

14

15 A. That is a complete fabrication. First of all, it is my understanding that there is no
16 such entity as Verizon Illinois. Verizon Services handles the interconnections for all the
17 Verizon states. Thirdly, I am forced to deal with one assigned representative, "Coast
18 to Coast" at Verizon (Dianne McKernan at Verizon Services, Inc.). Verizon National
19 management sets the rules for all the jurisdictions and is the authorized representative
20 for all of the local Verizon entities. While I agree that each state is regulated by a
21 different Commission there is only one group within Verizon that all the CLEC's deal
22 with for interconnection. The rules they set are the law to us. We have to play by their
23 rules.

24

25 Q. Kathryn Allison testified that Bell Atlantic is different than GTE. Do you agree?

26

27

28

1 A. Yes, they are different. Although, GTE was probably worse. They had no
2 incentive to open up their markets to competition. They were allowed to offer long
3 distance without having the conditions that the original Bell Atlantic companies had.

4
5 Q. Have you had bad experiences with the old GTE areas?

6
7 A. Yes, I am attaching an e-mail I sent to them on July 18th that explains all the
8 problems I have had with them. (See Exhibits P-023 through P-036.) They mislead
9 me during the negotiations of the interconnection agreement. They refused to negotiate
10 in writing. They refused to allow me to tape our negotiations. They then deny what was
11 said. They refused to abide by the contract once it is signed. In Washington, I
12 requested that we opt into an agreement on six different occasion. To this day, years
13 later, they still haven't sent me the interconnection agreement. The list goes on and on.

14
15 Q. How is California, Oregon and Washington related to Illinois?

16
17 A. Before Verizon and Verizon Services Corp (the division that deals with all the
18 CLEC's) GTE had their equivalent department. The same people at GTE who handle
19 Illinois handled these other states. As you can see, Charles Bartholomew is in
20 Washington State. Kathryn Allison also was responsible for all these states.

21
22 Q. Kathryn Allison also states that Bell Atlantic handled big cities and GTE handled
23 small cities. Is this accurate?

24
25 A. No. GTE is the CLEC in Los Angeles, the second largest city in the nation. West
26 Virginia, an old Bell Atlantic State is one of the most rural states.

1 Q. Kathryn Allison testified that NCC was for some reason maybe not aware that it
2 was required to have an interconnection agreement in Illinois. Is this correct?

3

4 A. No. I don't understand the purpose of Kathryn Allison's testimony in this regard.
5 She states she is not an attorney and can't render a legal opinion. She is attempting to
6 feed Verizon's position to the commission as if she has reviewed all the documents and
7 for some reason she feels is in a better position than the judge to judge for himself. She
8 was only involved in my case for a day or so. She is misleading the commission by
9 misstating facts. I don't believe she has even read all the e-mails in this case. The e-
10 mails speak for themselves. On December 11th, I sent an e-mail to Dianne McKernan.
11 (See Exhibit C-036.) I stated:

12 "I am sorry, I was obviously unclear. What I was trying to say is that I didn't want
13 to waste any of our time if Verizon was going to require a fiber build and wouldn't
14 use the same facilities that they would for a retail customer. Obviously, we
15 shouldn't even bother negotiating an interconnection agreement if Verizon is
16 going to require a fiber build. Would it be possible to find out if Verizon still
17 requires a fiber build or the use of a wholesale fiber MUX to be used for all
18 interconnections? I assume this would be something you could easily find out
19 without us having to go through the whole interconnection process..."

20 Clearly, I knew an interconnection agreement was required. I had personally negotiated
21 with Verizon in four states before entering Illinois.

22

23 Q. Kathryn Allison also testified about your forecast and how it was vague and
24 Verizon couldn't work with it?

25

26 A. Once again, she is misstating the facts and either leaving out parts of the e-mails
27 or not including all of them. The e-mails speak for themselves. (See Exhibits C-032
28 and P-013 and P-014.)

1 Q. Kathryn Allison stated NCC's forecast of February 15th, was significantly
2 greater than the December 7th forecast. She stated that NCC wanted 24 T1's or 1 DS3
3 for local traffic and 96 T1's or 4 DS3's for toll traffic. Is that accurate?
4

5 A. No. (See Exhibits P-013 and P-014.) I clearly stated that NCC only needed 24
6 trunks (1 DS1) for local traffic and 96 trunks (4 DS1's) of toll traffic. I then went on to
7 say I could get by with as little as 24 trunks (1 DS1) for toll traffic. A DS1 is the same
8 thing as a T1.
9

10 Q. Kathryn Allison also felt your demand letter to interconnect was unreasonable.
11 Do you agree?
12

13 A. She was taking my e-mail out of context. Verizon's attorney's had received a
14 more specific demand letter detailing our concerns about their dedicated MUX policy.
15 (See Exhibit T.) If you look at all the correspondence in whole, you will see her
16 conclusions are inaccurate. Verizon told me I had to use a dedicated MUX. I asked
17 them to provide me a list of all the dedicated mux's in the city. There couldn't have been
18 that many of them. There are not that many CLEC's or other wholesale carriers. As long
19 as they were going to stick to the policy, my demands or questions were not
20 unreasonable. I was actually saving both of us time. They have their network planning
21 maps; I don't have their maps. I am not sure if they were expecting me to play some
22 guessing game and give them lists of twenty buildings at a time only for them to check
23 their maps and give me a yes or no on each building. This could have taken months.
24 As long as Verizon was going to insist on imposing its policy of requiring CLEC's to only
25 interconnect at a "dedicated" "wholesale" facility, NCC was entitled to know from
26 Verizon the location of the available dedicated facilities with sufficient capacity to allow
27 NCC to interconnect.
28

1 Q. Kathryn Allison stated that NCC did not apply for prefixes until May 12, 2002. Is
2 this accurate?

3
4 A. No. She was not a party to this and is just reading my documents and reaching
5 her own conclusions. I applied for the prefixes on April 10th, 2002. There is a lottery for
6 prefixes in LATA 364. When I didn't get the prefixes, I just crossed out the dates and
7 sent in the same form again for the next months lottery. (See Verizon Exhibit KJA-8.)
8 I had actually first applied for the prefixes on March 21, 2002. (See Exhibit X) This
9 form has the date crossed out with a new date of May 12th. I only sent this form in on
10 March 21st. Before sending this form in a second time, I realized that it was my original
11 form that had a typo on it and sent in the April 10th form with the new date instead.

12
13 Q. Why did you just change the dates and not print out a new form?

14
15 A. I am a single father with primary physical custody. I never realized this form was
16 going to be used as a commission document. Many times I take documents from the
17 office and work on them at home after I pick my daughter up from elementary school. I
18 changed the dates and faxed them from my house. Neustar doesn't care if there are
19 cross-outs on the form. They are just using it for the lottery. They know what date they
20 received it. It shows up on their fax machine. Once they receive it, you are placed in the
21 next lottery. The next month, you go through the exact same process again until you get
22 a prefix. It was just a lot easier for me to cross out the old date and resend the same
23 form each month.

24
25 Q. Kathryn Allison stated that it took NCC twenty-four business days to accept
26 Verizon's ASR. Is this accurate?

27
28

1 A. No. First of all, I would like to point out that it took Verizon until August 6th, 2002
2 to send NCC an ASR. Because of their one way trunking requirements and not
3 allowing two-way trunks, NCC couldn't have received any local calls until they
4 provisioned these circuits. Second, it was Verizon who installed the circuits - not NCC.
5 Verizon picked the due date. Kathryn Allison's conclusions that NCC caused delays by
6 not submitting an ASR until July is preposterous given the fact that Verizon didn't
7 submit its ASR to North County until August.

8
9 Q. Kathryn Allison then points out that you are not getting any calls in Illinois. She
10 states that is because you don't have a written business plan.

11
12 A. First of all, we are a small company, there is no reason for me to write a written
13 business plan. I have never have. It is all in my head. Second, Verizon has ruined me.
14 Of course NCC doesn't have many calls. All of NCC's marketing funds have gone
15 toward legal fees. These lack of calls is testimony to the abuse NCC has received.
16 NCC marketed in West Virginia and lost a big part its customer's business because
17 NCC couldn't perform due to Verizon. I wasn't going to make that same mistake twice.
18 Clearly, Kathryn Allison has never run her own business. She is used to being in a
19 business where the customer had no choice but to go to you. It is just not the case with
20 a CLEC. We are also not on Rate of Return regulations. We don't have the same
21 guarantee that Verizon has in Illinois that it can't ever lose money. If NCC makes a
22 mistake, it is out of business.

23
24 Q. Kathryn Allison then stated that after reading the documents she thought NCC
25 only wanted to enter Illinois as a long distance carrier. Is that an accurate conclusion?

26
27 A. The e-mails stand for themselves. My e-mail of December 7th, 2001, clearly
28 stated that NCC needed two T1's for local traffic. (See Exhibit C-032.) In addition, long

1 distance carriers do not, "interconnect" and order interconnection trunks. They order
2 long distance Feature Group A, B, C or D trunks. Long distance carriers do not order
3 prefixes and have them turned up in the LERG (Local Exchange Routing Guide) - only
4 Local Exchanges Carriers order prefixes. She contradicts her own testimony because
5 she previously quoted Dianne McKernan and mentioned how she tried to help me by
6 telling me I needed to negotiate an Interconnection Agreement. Long Distance carriers
7 do not negotiate Interconnection Agreements. Clearly, Kathryn Allison is the only one
8 that was confused by my e-mail. Dianne McKernan knew what I was talking about.
9 Dianne McKernan's e-mail of December 11th, 2001, stated, "North County
10 Communications would like to become a CLEC in Illinois..." (See Exhibit C-035.) In
11 addition, Charles Bartholomew even quotes this e-mail on page 3 of his testimony.
12

13 Q. Kathryn Allison then makes the accusation that your e-mail talking about serving
14 DeKalb seemed, "a bit too convenient" because NCC didn't mention anything about De
15 Kalb until February 25th, after Verizon filed their Motion to Dismiss. Is this accurate?
16

17 A. No. Kathryn Allison's whole testimony is just confusing the facts in this case and
18 contradicts the other Verizon witnesses' testimonies. Dianne McKernan's own testimony
19 refutes that statement. She included my February 19th, 2002 e-mail. (See Exhibit P-
20 015.) This was sent three days before their Motion to Dismiss. I stated in that e-mail,
21 "These trunks will allow OUR LOCAL CUSTOMERS IN DEKALB to receive toll calls
22 coming from the long distance carriers." On February 25th, I sent a follow up e-mail to
23 them after reading the motion to dismiss. Kathryn Allison conveniently only quoted that
24 e-mail.
25

26 Q. Miss Allison commented that NCC never provided documentation to Verizon
27 about its application for a prefix in De Kalb as well as Neustar's denial letter stating that
28 NCC did not receive the prefix. Is this accurate?

1 A. No, NCC provided Verizon a copy of my application for prefixes. (See Verizon
2 Exhibit KJA-8.) Miss Allison is contradicting her previous statement, eleven pages
3 earlier on page 36 of her testimony, that NCC applied for its prefix on May 12, 2002 and
4 she attached NCC's APPLICATION FOR ILLINOIS NUMBER PREFIXES. Attachment
5 KJA-8. Although, she is correct that NCC did not win the lottery nor did NCC did not
6 provide the denial letters from Neustar stating that fact.

7
8 Q. Why didn't you send Verizon the documents?

9
10 A. I didn't plan on saving any of them. I didn't feel it was necessary to save them. I
11 knew I didn't win the lottery. It was a public record who won the lottery. It was obvious
12 that NCC didn't win by the fact that NCC applied for the same prefix the next month. I
13 get a stack of mail over a foot high every single day. If I can throw out a document we
14 don't need, I throw it out. I thought I threw it out months earlier.

15
16 Q. Where you able to locate any of the documents about the lottery.

17
18 A. Yes. Going through the records, I found two of the missing documents. NCC's
19 original applications for prefixes in March and one of the lottery responses. They were
20 stapled together.

21
22 Q. Why was it not initially produced?

23
24 A. I didn't even know we still had any of them. I usually throw them out. The only
25 reason one of them was saved was because the cover sheet of the Neustar fax had an
26 advertisement on it. It was filed under our Neustar prefix application directions. It said,
27 "Tired of printing and faxing your applications, having to call the code administrator to
28 see if your application has been processed, waiting by the fax machine for your Part 3

1 to appear, having to re-type information on each and every Part 1? NANPA's new CAS
2 system can save you hours of drudgery. To learn more about CAS visit the NANPA web
3 site...". (See Exhibit Y.)
4

5 Q. Did you just cross out the application dates each time instead of re-typing them
6 to save yourself hours of drudgery?
7

8 A. Yes. Now that they have their new system, I will gladly start doing it online.
9

10 Q. Miss Allison then commented on NCC's specific testimony in this case. She
11 stated that Verizon never said a new multiplexer would need to be built. She then
12 replied by saying that Charles Bartholomew specifically informed NCC that Verizon
13 Illinois does not require a fiber build to interconnect. Is this what really happened?
14

15 A. No. She needs to re-read the e-mails. (See Exhibits C-033, C-034, C-035, C-
16 036) First, Charles Bartholomew never specifically informed NCC about anything in
17 those e-mails. He specifically responded to Dianne McKernan. Dianne McKernan then
18 forwarded the response he sent her to me. I had no contact with him or any of the
19 people she questioned. Second, Miss Allison is confusing the questions that were
20 asked. Multiple questions were asked by Dianne McKernan. The first question Dianne
21 McKernan asked is if Verizon requires a fiber build for CLEC to interconnect. Charles
22 Bartholomew responded by saying that they do not require a fiber build. Dianne
23 McKernan then sent a followup e-mail stating that Verizon East has policy of using an
24 enterprise services MUX to install interconnection trunks. Charles Bartholomew
25 responded by saying the Verizon West policy is the same as the east.
26

27 Q. Does this conclude your testimony?
28

1 A. Yes, except for the following. That this was all some big "mistake" or that
2 Verizon does things differently in Illinois as opposed to what it does in the "East" or
3 "West" is belied by the plain fact that nobody from Verizon Services Corp. ever even
4 attempted to contact a local Illinois representative to get a "local" perspective. It is also
5 belied by the fact that Verizon's attorney, Mr. Hartman, continued to refuse to
6 reconsider Verizon's policy after getting Exhibit T, my attorney's letter. The written
7 record in this case tells the true story.

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CERTIFICATE OF SERVICE

I, Suzanne Taylor Joyce, hereby certify that I served a copy of the **SECOND REBUTTAL TESTIMONY OF TODD LESSER ON BEHALF OF NORTH COUNTY COMMUNICATIONS, INC.**, upon the party(s) stated below by email on November 12, 2003.

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Dated: November 12, 2003

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